

## § 870.102

part of the required amount was withheld).

[62 FR 48731, Sept. 17, 1997; 62 FR 52181, Oct. 6, 1997, as amended at 64 FR 16602, Apr. 6, 1999; 64 FR 72461, Dec. 28, 1999; 75 FR 60575, Oct. 1, 2010]

### § 870.102 The policy.

Basic, Option A, Option B, and Option C benefits are payable according to a contract with the company or companies that issue a policy under § 8709 of title 5, United States Code. Any court action to obtain money due from this insurance policy must be taken against the company that issues the policy.

### § 870.103 Correction of errors.

(a) The employing office may make corrections of administrative errors regarding coverage or changes in coverage. Retroactive corrections are subject to the provisions of § 870.401(f).

(b) OPM may order correction of an error after reviewing evidence that it would be against equity and good conscience not to do so.

### § 870.104 Incontestability.

(a) If an individual erroneously becomes insured, the coverage will remain in effect if at least 2 years pass before the error is discovered, and if the individual has paid applicable premiums during that time. This applies to errors discovered on or after October 30, 1998, and applies only to employees, not retirees or compensationers.

(b) If an employee is erroneously allowed to continue insurance into retirement or while receiving compensation, the coverage will remain in effect if at least 2 years pass before the error is discovered, and if the annuitant or compensationer has paid applicable premiums during that time. This applies to such errors discovered on or after October 30, 1998.

(c) If an individual is erroneously enrolled in life insurance on or after the date he or she retires or begins receiving compensation, the coverage cannot remain in effect even if 2 years pass and the individual paid applicable premiums.

(d) If an individual who is allowed to continue erroneous coverage under this section does not want the coverage, he

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or she may cancel the coverage on a prospective basis, effective at the end of the pay period in which the waiver is properly filed. There is no refund of premiums. *Exception:* If an employee obtained Option C erroneously and did not have any eligible family members, that coverage may be cancelled retroactively and the insured will obtain a refund of the erroneous Option C premiums.

[75 FR 60576, Oct. 1, 2010]

### § 870.105 Initial decision and reconsideration.

(a) An individual may ask his or her agency or retirement system to reconsider its initial decision denying:

- (1) Life insurance coverage;
- (2) The opportunity to change coverage;
- (3) The opportunity to designate a beneficiary; or
- (4) The opportunity to assign insurance.

(b) An employing office's decision is an initial decision when the employing office gives it in writing and informs the individual of the right to an independent level of review (reconsideration) by the appropriate agency or retirement system.

(c) A request for reconsideration must be made in writing and must include the following:

- (1) The employee's (or annuitant's) name, address, date of birth;
- (2) The reason(s) for the request; and
- (3) The retirement claim number (Civil Service Annuity Claim Number) or compensation number, if applicable.

(d) A request for reconsideration must be made within 31 calendar days from the date of the initial decision (60 calendar days if overseas). This time limit may be extended when the individual shows that he or she was not notified of the time limit and was not otherwise aware of it or that he or she was unable, due to reasons beyond the individual's control, to make the request within the time limit.

(e) The reconsideration must take place at or above the level at which the initial decision was made.

(f) After reconsideration, the agency or retirement system must issue a final decision to the insured individual. This